

**MINUTES OF THE
REGULAR MEETING OF THE
WASHINGTON COUNTY QUORUM COURT**

Thursday, February 21, 2013
6:00 p.m.
Washington County Quorum Court Room

2013 MAR 25 PM 12:46
BECKY L. LUNDSTRUM
CO. & PROB. CLERK
WASHINGTON COUNTY

FILED

- 30.1 The Washington County Quorum Court met in regular session on Thursday, February 21, 2013. The meeting was called to order by Judge Marilyn Edwards.
- 30.2 T. Lundstrum led the Quorum Court in a prayer and in the Pledge of Allegiance.
- 30.3 **MEMBERS PRESENT:** Ron Aman, Rex Bailey, Harvey Bowman, Candy Clark, Rick Cochran, John Firmin, Barbara Fitzpatrick, Ann Harbison, Tom Lundstrum, Eva Madison, Jimmy Mardis, Joe Patterson, Butch Pond, and Bill Ussery.
- 30.4 **MEMBER ABSENT:** Mary Ann Spears.
- 30.5 Judge Edwards reported that due to the bad weather last night, M. Spears had a school function rescheduled for tonight that she had to attend.
- 30.6 **OTHERS PRESENT:** County Judge Marilyn Edwards, County Chief of Staff Dan Short, County Comptroller Cheryl Bolinger; Interested Citizens; and Members of the Press.
- 30.7 **ADOPTION OF THE AGENDA:** Judge Edwards asked if there were any additions or deletions to the agenda.
- 30.8 C. Clark stated at the request of Grant Administrator Wayne Blankenship, they needed to remove Item #8.4 and add Item #8.14 to the agenda.
- 30.9 **C. Clark made a motion to adopt the agenda with these amendments. T. Lundstrum seconded. The motion passed unanimously by voice vote by those present. The agenda was adopted as amended.**
- 30.10 **APPROVAL OF MINUTES:** Judge Edwards asked for approval of the minutes of the January 3 organizational/regular meeting of the Washington County Quorum Court.
- 30.11 **A. Harbison made a motion to approve the minutes as distributed. The motion was seconded. The motion passed unanimously by voice vote by those present. The minutes were approved.**

- 31.1 **TREASURER'S REPORT:** County Treasurer Roger Haney addressed the Quorum Court with the monthly Treasurer's Report. He stated that they closed out the 2012 year and there is a report on file in the County Clerk's Office which shows the cash balances as of December 31, 2012. He noted that they started out last year with a balance of \$44 million and they had \$414 million of revenue of which half came from taxes; and ended up spending about \$418 million with carryover of all funds of about \$40 million which is where they started at the beginning of 2013. Out of the \$414 million in revenue that they brought in, \$148 million represented school, city and county taxes and further that about 81% of taxes goes to schools, 10% goes to the county, 9% goes to the cities, and improvement districts receive about 1%.
- 31.2 Mr. Haney addressed his Treasurer's Financial Summary for the Month of January 2013, noting that they are running better than the projected 8% collected due to the end of 2012 items carrying over into 2013. He stated that the first accounts shown are those funds that the county collects and that the County Quorum Court has control of in terms of appropriations; and the remaining account funds are agency funds that come through the County Treasurer's Office. He handles the money, but those funds are transferred out to someone and not funds that the Quorum Court appropriates. He explained grant funds where money is paid out, then the agency is billed and the county is then reimbursed within a couple of months that balances out the negative figure. He addressed the County Road Fund which is doing fine and there was money set aside in the General Fund that will go to the Road Fund if needed and he will report to the Quorum Court when this occurs. Mr. Haney noted that the Recorders Cost Fund is the fund that the Circuit Clerk has that is capped at \$1.0 million and anything over that is transferred into the General Fund at the end of the month which usually runs from \$60,000 to \$70,000, but this month was \$133,000.
- 31.3 R. Haney reported that the Jail Operations & Maintenance Fund started out with a very low balance, but has received money throughout the month from ¼-cent sales tax; however, they did have to transfer money from the General Fund that was budgeted for 2012 and some from 2013 to help them with their cash flow. He stated that in 2013, the Quorum Court has set aside \$2.7 million to help them meet their budget needs, and for cash flow purposes they have transferred over \$1,184,000 which should take them over for another 2-3 months. Mr. Haney stated that the Drug Court Program Fund is another fund like the Drug Court Grant Fund and they did anticipate money there because it is money coming from fines and fees charged through the Drug Court. He addressed the Court Costs and Fines Fund stating that money here is set aside for bonds that they are paying on the Historic Courthouse.

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- 32.1 Mr. Haney addressed his report on the Washington County share of the 1% sales tax and ¼-cent sales tax for the Jail which he provides each month to help the Quorum Court to keep tabs on it.
- 32.2 In response to a question from B. Fitzpatrick on the projections shown for the 1% sales tax and ¼-cent sales tax which are the same, he explained that the projections shown are for the 1% sales tax is correct; however, that shown for the ¼-cent sales tax is not correct and instead is right at \$8 million.
- 32.3 Mr. Haney continued that in December 2012, collections were down about ½ percent in the regular county-wide sales tax, which is the tax that they share with the cities around the county. However, overall they were 2.7% higher in 2012, and they have projected some growth for next year but not a lot. He stated that he does have a concern because of the increase in price of gasoline as in the past; it typically causes people to pull back from eating out and even making regular purchases which hurt their sales tax collections. He stated that even though it is early in the year, he will be watching this closely. He noted that they did not have as good of a fall as he expected, even though they did okay with a couple of months higher than others and three months that were lower than corresponding months in the previous year, but overall, they were up which is what they were looking for. He stated that the Jail sales tax is a ¼ cent sales tax that goes strictly for the Jail Fund and that was up 4.5% last year; however, for the month of December was down .03%. This month was up 5.35% and the regular sales tax was up 5.4%. The sales tax figures normally track together and differences are usually due to rounding figures and noted that they were both up in January which is for tax collections in November. He will receive an amount in the next few days that was collected for us by the State the 1% sales tax for the month of December which is always their highest month pointing out that February which is a short month will always gather more sales tax than any other month on their reports because they are reporting these figures two months behind.
- 32.4 C. Clark stated that she is glad to see the Jail sales tax up as this is her constant worry because if they fall short, that comes out of the General Fund; to which Mr. Haney responded that this year it will track pretty much evenly because last year they had one month that they were using the old percentages and now they are using the new percentages.
- 32.5 C. Clark asked whether, with the exception of gas, this gives him some degree of optimism on the economy coming back; to which Mr. Haney responded that the economy has come back some just not as fast as they hoped, but they collected more sales tax than they did the previous year. He further noted that the gas prices may cause a little bit of a glitch depending on

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how long it lasts and further reiterated that in the past when they have had sharp increases in gas prices, they see some consumer spending go down which hurts their sales tax.

- 33.1 In response to a question from H. Bowman whether he has noticed any parallel between Walmart sales being off and the County's tax revenue, Mr. Haney responded that they would see some loss in tax revenue, but when Walmart talks about their revenue being off, they are talking about a larger area than just Washington County.
- 33.2 R. Cochran asked whether on the change in withholding where they have had folks add another 2% of withholding, when he put the budget together, did he forecast that or blend it into the numbers in anyway; to which Mr. Haney responded that it is in their budgets and the only effect they will see is money they are paying out to those employees.
- 33.3 R. Cochran stated that he was looking more at sales tax revenue if an employee has 2% less to spend; to which Mr. Haney stated that he did not take that into account.
- 33.4 In closing, Mr. Haney urged any JP who had any questions or concerns to give him a call or come by his office to go through any figures that he has available to him. He stated these are revenue figures and that is what they form their budget with, so the better these numbers are, the more money they have to put into the budgets to serve the people of Washington County.
- 33.5 **COMPTROLLER'S REPORT:** County Comptroller Cheryl Bolinger addressed the Quorum Court stating that it was an odd time of the year for the Comptroller's Office because it is too early to get the 2012 figures totally together and of course, the budgets are in fine shape for 2013. She stated that next month they should have the final numbers for 2012, contingencies and carryovers. She also urged the JPs to contact Court Secretary Karen Beeks with any questions they may have about the end of the year figures for next month and she will send it on to her to report on at the next meeting.
- 33.6 In response to a question from R. Bailey about how much the County currently has in General Fund unappropriated reserves, Ms. Bolinger stated that it would be just what the budget showed originally or \$7,089,410 as this will not change until they close out the books for 2012.
- 33.7 C. Clark about how much of that amount did the Quorum Court set aside; to which Ms. Bolinger stated that they have set aside \$514,725 for the Road Fund and \$2,718,981 for the Jail Fund for a total of \$3,233,706.

- 34.1 C. Clark asked whether they set some funds aside for the Sheriff's Annex renovation, to which Ms. Bolinger responded that this money was actually appropriated in the Buildings & Grounds Budget.
- 34.2 FINANCE REPORT: C. Clark noted that she has 14 items to report under report to address.
- 34.3 **C. Clark made a motion to suspend the rules and read #8.1 by title only. B. Fitzpatrick seconded.** The motion passed unanimously by voice vote by those present.
- 34.4 AN ORDINANCE REDUCING THE AMOUNT OF \$1,339,090 FROM LINE ITEMS IN VARIOUS COUNTY BUDGETS AND RESTORING THOSE FUNDS TO UNAPPROPRIATED RESERVES; AND, APPROPRIATING THE TOTAL AMOUNT OF \$3,834,424 FROM UNAPPROPRIATED RESERVES TO VARIOUS BUDGET LINE ITEMS FOR 2013; C. Clark introduced **An Ordinance Reducing The Amount Of \$1,339,090 From Line Items In Various County Budgets And Restoring Those Funds To Unappropriated Reserves; And, Appropriating The Total Amount Of \$3,834,424 From Unappropriated Reserves To Various Budget Line Items For 2013,** and County Attorney George Butler read the ordinance by title only.
- 34.5 County Comptroller Cheryl Bolinger explained that normally when they do these housekeeping appropriations, they actually reduce more than they appropriate. In this case they are not because with the new codes came some other things such as they now have a code to do transfers out; so they now have to appropriate those where in the past that was not always the case and did not get done. Therefore, the difference in what the reductions in the appropriations are will be the transfers out. She noted that the main transfer in General is the Jail transfers and Road, County Library, Jail Fund, 9-1-1, and Adult Drug Court are end of the year transfers and all of the departments are moved back into General to help cover the expense of the Comptroller's Office, Purchasing, HR, and IT Department because those departments, although they work for Judge Edwards, actually work with all elected officials and handle their business aside of what they do so all the different funds actually give back to the General Fund to help cover part of those expenses. Ms. Bolinger noted that the \$50,000 for County Clerk's Cost represents the infusion they did to the Insurance Fund and the remaining transfers except the one in General are mainly going back into the General Fund; and the one in General was the one going to the Jail Fund. There was also \$4,952 transfer that was money that was supposed to go into Drug Enforcement Fund but accidentally went into General.

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- 35.1 Ms. Bolinger also noted when they got an appropriation at the end of 2011 for the Animal Shelter, it was put in the Building Superintendent's Budget, but it did not get put into the 2012 Budget as capital and that was left off. Mr. Wood had enough money in his Budget that he did not believe he needed to come back and ask to have that to be appropriated, but now they have to move it from one line item to the other which represents the other big item on her report.
- 35.2 R. Bailey inquired about the \$2,160,000 that is being put back into the General Fund; to which Ms. Bolinger stated that the \$2.1 million is money coming out of the General Fund and money going into the General Fund is the \$1.055 million. What you would actually be appropriating as additional appropriations is the \$1.1 million, the difference of the two. She further explained that the \$1.1 million was money transferred to Jail and the \$4,952 is the reimbursement of the Drug Enforcement Fund from the previous year because there was a receipt that accidentally got put into General and they did not catch it until after the first of the year, so they had to move it out.
- 35.3 R. Bailey stated that it is confusing to him because it looks like it is going out of reserves and into the General Fund.
- 35.4 T. Lundstrum questioned that on the Agenda, the ordinance title refers to line items for 2012, but on the actual ordinance, it is 2013; to which Ms. Bolinger responded that the ordinance number is a 2013 number because it is being done in the year 2013, but acknowledged that there is a scrivener's issue in the ordinance title and should read 2012. Ms. Bolinger further verified that this does not affect the budget as passed for 2013 and does not really affect the money because that money has already been transferred to the Jail Fund, but something that they have to do in order to be right with the auditors.
- 35.5 **R. Cochran made a motion to correct the ordinance title from 2013 to 2012. B. Fitzpatrick seconded. The motion passed unanimously by those present by voice vote.**
- 35.6 **C. Clark made a motion to adopt the ordinance as corrected. B. Fitzpatrick seconded.**
- 35.7 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 35.8 **VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-01, BOOK NO. 9, PAGE NO. 135

- 36.1 **A RESOLUTION AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR A HOOKED ON FISHING NOT ON DRUGS GRANT:** C. Clark introduced **A Resolution Authorizing The Submittal Of An Application For A Hooked On Fishing Not On Drugs Grant**, and County Attorney George Butler read the resolution.
- 36.2 **C. Clark made a motion to adopt the resolution. R. Bailey seconded.**
- In response to a question from R. Aman, Grant Administrator Wayne Blankenship stated that they have a pond south of the Juvenile Detention Center that they have cleaned up and are going to start the process of putting a fishing dock on it for the HOFNOD Club that is with JDC Director Jeanne Mack and used for the JDC.
- 36.3 **Citizen Comments:** There were no citizen comments.
- 36.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the resolution.**
- 36.5 **VOTING FOR:** R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. **The motion passed unanimously by those present. The resolution was adopted.**

RESOLUTION NO. 2013-01, BOOK NO. 3, PAGE NO. 39

- 36.6 **A RESOLUTION AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR A COMMUNITY FIRE PREVENTION GRANT:** C. Clark introduced **A Resolution Authorizing The Submittal Of An Application For A Community Fire Prevention Grant**, and County Attorney George Butler read the resolution.
- 36.7 In response to a question from C. Clark, Grant Administrator Wayne Blankenship verified that this would not cost the County anything.
- 36.8 **C. Clark made a motion to adopt the resolution. R. Cochran seconded.**
- 36.9 R. Aman asked how they go about educating youth on fire prevention; to which Grant Administrator Wayne Blankenship explained that the Task Force actually goes to the schools, puts on programs and works with the youth and their families that they believe have problems with setting fires.

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- 37.1 John Luther, Director of the County's Department of Emergency Management, addressed the Quorum Court stating that the Fire Marshal's is with the Sheriff's Office and they have worked with the Juvenile Fire Setter Program for many years and Dennis Ledbetter, Fire Marshal with the Sheriff's Office, heads that program. He stated that this is a very good program supported by the Sheriff's Office and they work with teens that have been involved with juvenile fire setters.
- 37.2 John Luther introduced their Deputy Director Rick Johnson and Intern Adam Chase from Arkansas Tech University.
- 37.3 Citizen Comments: There were no citizen comments.
- 37.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the resolution.**
- 37.5 VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. **The motion passed unanimously by those present. The resolution was adopted.**
- RESOLUTION NO. 2013-02, BOOK NO. 3, PAGE NO. 40**
- 37.6 A RESOLUTION AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR A COUNTY VOTING SYSTEM GRANT: C. Clark introduced **A Resolution Authorizing The Submittal Of An Application For A County Voting System Grant**, and County Attorney George Butler read the resolution.
- 37.7 Grant Administrator Wayne Blankenship stated that this was a new grant from the Arkansas Secretary of State in the amount of \$10,000 for each of the 75 counties in the state and there is no money required by the County. He noted that they are planning on purchasing batteries and flash cards for the voting machines.
- 37.8 **C. Clark made a motion to adopt the resolution. J. Patterson seconded.**
- 37.9 In response to a question from E. Madison whether this was only for upgrades to existing voting equipment and not proposing any kind of changes; to which Mr. Blankenship responded that it was only for purchasing parts for maintaining existing voting equipment.
- 37.10 In response to questions from R. Aman, Mr. Blankenship stated that the county's existing voting equipment is adequate for our needs. The batteries

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are several years old and with this grant, they will have new batteries to replace as necessary. He further stated that the county is in charge of elections and without this grant; the county would be required to pay for the same.

- 38.1 Judge Edwards further explained that the County budgets for this type of thing, but Mr. Blankenship is always applying for grants because this is money they can use that doesn't cost their General Fund any money.
- 38.2 R. Aman commented that even though this is free money to the County, he would like to see them ask for less money from the state because taxpayers are actually paying for it; to which Mr. Blankenship responded that this money is actually a fee that the Secretary of State has found and are charging per sheet to register and it is not tax dollars.
- 38.3 Judge Edwards added that the Secretary of State is the owners of voter's registration and they will be the one collecting the fee that comes to the County through this grant.
- 38.4 R. Aman asked who this fee is being collected from; to which Mr. Blankenship stated that he did not ask because from his side of it, that is their business. He stated that it is grant funds that have been divided between all Arkansas counties to receive \$10,000 each and Washington County will apply for it to help with keeping our equipment in shape.
- 38.5 Citizen Comments: There were no citizen comments.
- 38.6 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the resolution.**
- 38.7 VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. **The motion passed unanimously by those present. The resolution was adopted.**

RESOLUTION NO. 2013-03, BOOK NO. 3, PAGE NO. 41

- 38.8 C. Clark explained for the benefit of both the new folks and those watching, those were all resolutions which only require one reading as do appropriation ordinances and the upcoming ordinances will require three readings. She further stated that Mr. Blankenship had asked her to group the grant resolutions together, but for the benefit of the new folks, she wanted to read them one at a time.

- 39.1 **AN ORDINANCE ESTABLISHING A VOTING SYSTEM GRANT FUND FOR WASHINGTON COUNTY, ARKANSAS:** C. Clark introduced **An Ordinance Establishing A Voting System Grant Fund For Washington County, Arkansas,** and County Attorney George Butler read the ordinance. Mr. Blankenship explained this ordinance goes with the previous resolution.
- 39.2 **C. Clark made a motion to adopt the ordinance. E. Madison seconded.**
- 39.3 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 39.4 **VOTING FOR:** R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. **The motion passed unanimously by those present. The ordinance was adopted.**
- ORDINANCE NO. 2013-02, BOOK NO. 9, PAGE NO. 140**
- 39.5 **C. Clark made a motion to suspend the rules and read this next ordinance #8.7 by title only. R. Bailey seconded. The motion passed unanimously by those present by voice vote.**
- 39.6 **AN ORDINANCE ANTICIPATING REVENUES TOTALLING \$1,060,671 IN VARIOUS GRANT FUNDS; AND APPROPRIATING \$1,133,148 FROM VARIOUS FUNDS TO VARIOUS BUDGET LINE ITEMS FOR 2013:** C. Clark introduced **An Ordinance Anticipating Revenues Totaling \$1,060,671 In Various Grant Funds; And Appropriating \$1,133,148 From Various Funds To Various Budget Line Items For 2013,** and County Attorney George Butler read the ordinance.
- 39.7 **C. Clark made a motion to adopt the ordinance. R. Bailey seconded.**
- 39.8 In response to a question from J. Firmin, Grant Administrator Wayne Blankenship stated that for several years, they did the grant funds with budget carryover, but this year they waited until after the first of the year and kept the grant funds separate. This is actually moving all of the remaining funds in the grants from the 2012 to the 2013 budget so it will be set in 2013 and they can move forward.
- 39.9 Comptroller Cheryl Bolinger stated that they are just starting doing it this way because they need to have the grant more accurate, and the only way to do that is to wait until all bills are paid so they can tell exactly what the starting number should be.

- 40.1 Mr. Blankenship added that it is considered a housekeeping measure.
- 40.2 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 40.3 **VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-03, BOOK NO. 9, PAGE NO. 141

- 40.4 **AN ORDINANCE ANTICIPATING ADDITIONAL REVENUES OF \$307,693 IN THE HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) GRANT FUND; AND APPROPRIATING \$307,693 FROM THE HIDTA GRANT FUND TO THE HIDTA 2013 GRANT G13GC004A BUDGET FOR 2013: C. Clark introduced An Ordinance Anticipating Additional Revenues Of \$307,693 In The High Intensity Drug Trafficking Area (HIDTA) Grant Fund; And Appropriating \$307,693 From The HIDTA Grant Fund To The HIDTA 2013 Grant G13GC004A Budget For 2013, and County Attorney George Butler read the ordinance.**
- 40.5 C. Clark stated that this was a perfect example of showing how every penny the county receives must be received and then appropriated and that is exactly what this ordinance does.
- 40.6 **C. Clark made a motion to adopt the ordinance. E. Madison seconded.**
- 40.7 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 40.8 **VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-04, BOOK NO. 9, PAGE NO. 144

- 40.9 **AN ORDINANCE ANTICIPATING ADDITIONAL REVENUES OF \$3,500 IN THE RURAL COMMUNITY GRANT FUND; AND APPROPRIATING \$3,500 FROM THE RURAL COMMUNITY GRANT FUND TO THE RHEAS MILL BUDGET FOR 2013: C. Clark introduced An Ordinance Anticipating Additional Revenues Of \$3,500 In The Rural Community Grant Fund;**

And Appropriating \$3,500 From The Rural Community Grant Fund To The Rheas Mill Budget For 2013, and County Attorney George Butler read the ordinance.

- 41.1 **C. Clark made a motion to adopt the ordinance. R. Cochran seconded.**
- 41.2 R. Cochran stated that he really appreciates the people out in Rheas Mill as they were in his former district before they redrew the lines. He reported that they have been having pie suppers and all kinds of fund raising to get a new roof on the old Rheas Mill schoolhouse which is their community building and he is really proud of them working so hard to raise the money to match this grant that the state is offering them.
- 41.3 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 41.4 **VOTING FOR:** R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-05, BOOK NO. 9, PAGE NO. 145

- 41.5 **AN ORDINANCE RECOGNIZING ADDITIONAL REVENUES OF \$94,359 IN THE ROAD FUND; AND APPROPRIATING \$94,359 FROM THE ROAD FUND TO THE ROAD FUND BUDGET FOR 2013:** C. Clark introduced **An Ordinance Recognizing Additional Revenues Of \$94,359 In The Road Fund; And Appropriating \$94,359 From The Road Fund To The Road Fund Budget For 2013,** and County Attorney George Butler read the ordinance.
- 41.6 **C. Clark made a motion to adopt the ordinance. B. Pond seconded.**
- 41.7 B. Fitzpatrick asked which of the disasters is this particular FEMA money for; to which Mr. Blankenship responded that it was for the 2011 flood and is a 12.5% state portion, FEMA pays 75%, and the County pays 12.5%, so it takes a little while for the State to come through.
- 41.8 In response to a question from J. Firmin whether they have to appropriate that money to that particular line item, Mr. Blankenship stated that in talking to the Road Department they would like to be able to use part of that money towards new construction on the Harvey Dowell Bridge.

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42.1 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**

42.2 **VOTING FOR:** R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-06, BOOK NO. 9, PAGE NO. 146

42.3 **AN ORDINANCE APPROPRIATING \$10,000 FROM THE GENERAL FUND TO THE DEM BUDGET FOR 2013:** C. Clark introduced **An Ordinance Appropriating \$10,000 From The General Fund To The DEM Budget For 2013**, and County Attorney George Butler read the ordinance.

42.4 Wayne Blankenship stated that five years ago, they did a complete hazard mitigation plan which was at that time new, but required by FEMA to have if you are going to apply for hazard mitigation money. For each disaster that is declared in the state, there is a percentage that is sent to the state for hazard mitigation, so someone building a new home or schools can apply for funds of to build a safe room. Further, if these funds can be applied for to repair roads that continually wash out and the county has utilized this money for the film that has been applied on nearly every county window. He explained that the hazard mitigation plans must be redone, resubmitted, and approved every five years. The cost to do this by Arkansas Tech is \$10,000 while the cost elsewhere could be \$40,000 to \$50,000. He stated that this is for the plan itself and Arkansas Tech will do all of the paperwork and attend meetings with each city council, school, some businesses, and the county for approval. If you do not have a plan, then FEMA will not consider the County for any hazard mitigation money in the event of a disaster.

42.5 **C. Clark made a motion to adopt the ordinance. R. Cochran seconded.**

42.6 J. Mardis asked whether the County normally bids these types of jobs out; to which Mr. Blankenship responded that if the job is \$20,000 or more then they would have to go out to bid for private companies, which would be anywhere from \$40,000 to \$50,000. However, with Arkansas Tech being a college and doing it as part of their training, they can do it for a lower price and therefore, the County does not have to bid it. He further explained that a University cannot bid against other entities.

42.7 John Luther, Director of the County Department of Emergency Management, further explained that they spoke to other counties who have done this and

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they had hazard mitigation grant funds and at the time, had a plan in effect and applied for these funds and then they contracted with private companies to rewrite their plan to extend it and in both cases, the contracts came back between \$40,000 and \$50,000. He stated that they discovered that Arkansas Tech has an Emergency Management Program and does this as part of their curriculum. Therefore, the benefit to Washington County is they get \$10,000 which is under the \$20,000 threshold with no requirement to bid, knowing full well if they did go to public bid, the two that they have seen done were a lot more, so this is a great savings for the county, helps the citizens and the county in the future to apply for hazard mitigation funds.

- 43.1 J. Mardis stated that he understands why they are doing it this way as far as the end product, but his concern is on the front end of this, he understands that they will do it for less than \$20,000, but basically the cost for doing this normally is a lot higher, which goes back to the qualification of what they are required to do as far as obtaining bids. He is not against this but is just trying to learn.
- 43.2 County Attorney George Butler noted that this does not happen too often, but there are some things that they know for a fact or have a pretty good guess that the cost will be \$20,000 or more.
- 43.3 H. Bowman stated that he is surprised to learn that the hazard mitigation funds can be applied for by individual homeowners, to which Director of Emergency Management John Luther responded that there is old program called Project Impact where they have a lot of applicants that come in and want to build a storm shelter in their new home. There is a set of FEMA specifications that they have to meet in the construction of that; and then there are other homeowners that want to retrofit a storm shelter in their garage or yard. Mr. Luther explained that the State will actually pay up to 50% of the cost of this up to \$1,000 as a private individual and they have probably done about 350 of those over time and this has been a very good program for people to put shelters in their homes to keep them safe during storms. The other hazard mitigation funds are strictly for counties, cities, schools, and possibly non-profits.
- 43.4 R. Bailey asked for verification on the bidding, and County Attorney George Butler confirmed that the county does not have to bid unless the cost is \$20,000.
- 43.5 R. Aman asked where this money comes from for hazard mitigation; to which John Luther stated that it comes off the top of every dollar that FEMA pays to the state post disaster, but he is unsure of the exact percentage but believes

it is around 7.5%. For example, if the State of Arkansas receives \$1.0 million from FEMA, then that percentage is automatically pulled off the top and placed into the Hazard Mitigation Fund to hopefully better prepare the State and its communities for future events. The Hazard Mitigation Plan that we have approved by FEMA and the Department of Homeland Security keeps all the folks in Washington County eligible for these funds.

- 44.1 R. Aman stated that he sees where some people will benefit from this, but doesn't see it benefitting the whole county; to which Mr. Luther reiterated that the county benefits by fixing roads and bridges and schools benefit from having safe rooms in their schools which would benefit constituents. Mr. Aman stated that he sees the benefits for roads and schools, but wishes that they would cut the homeowners out of it because he can see the system being abused.
- 44.2 Mr. Blankenship noted that this is a plan that has been in motion for years and years and is the way that FEMA has operated, and each state that is declared with a disaster, gets the money and then there is a set of rules that need to be followed to utilize those dollars in each county.
- 44.3 Mr. Luther stated that they do not dictate who can and can not apply, but these requirements come from the federal government about who can apply for the funds.
- 44.4 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 44.5 **VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, and B. Ussery. VOTING AGAINST: R. Aman. The motion passed with thirteen members voting for and one member voting against the motion. The ordinance was adopted.**

ORDINANCE NO. 2013-07, BOOK NO. 9, PAGE NO. 147

- 44.6 **AN ORDINANCE RECOGNIZING REVENUES OF \$4,320 IN THE GENERAL FUND; AND, APPROPRIATING THE AMOUNT OF \$4,320 FROM THE GENERAL FUND TO THE DEM BUDGET FOR 2013: C. Clark introduced **An Ordinance Recognizing Revenues Of \$4,320 In The General Fund; And, Appropriating The Amount Of \$4,320 From The General Fund To The DEM Budget For 2013,** and County Attorney George Butler read the ordinance.**

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- 45.1 Wayne Blankenship explained that the HAZMAT team that they have had for years has disbanded. Springdale and Fayetteville have all of the equipment and will be taking care of the county in that sense.
- 45.2 John Luther explained that that they have equipment called a thermal imaging camera that look into containers to see the level of product in the containers in a hazardous materials environment. He stated that this equipment was broken and the regional team is reimbursing them the cost to replace that equipment. He noted that due to the Northwest Arkansas Regional Team being disbanded, they are doing away with some equipment that they and others have purchased over the years for the team and as that comes back, we will see some more dollars come back to our division for equipment like this.
- 45.3 In response to a question from C. Clark, Mr. Blankenship explained that the \$4,320 was put in the General Fund from HAZMAT and now we need to put it in the DEM budget.
- 45.4 **C. Clark made a motion to adopt the ordinance. B. Fitzpatrick seconded.**
- 45.5 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 45.6 **VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-08, BOOK NO. 9, PAGE NO. 148

- 45.7 **AN ORDINANCE SUSPENDING BUDGET CONTROLS AND ANY APPLICABLE JESAP POLICIES TO CHANGE THE TITLES OF PERSONNEL POSITIONS IN THE HUMAN RESOURCES BUDGET AND IN THE JAIL BUDGET FOR 2013; AND APPROPRIATING THE TOTAL AMOUNT OF \$22,563 FROM THE GENERAL FUND TO PERSONNEL LINE ITEMS IN THE CIRCUIT CLERK AND HUMAN RESOURCE BUDGETS FOR 2013; C. Clark introduced An Ordinance Suspending Budget Controls And Any Applicable JESAP Policies To Change The Titles Of Personnel Positions In The Human Resources Budget And In The Jail Budget For 2013; And Appropriating The Total Amount Of \$22,563 From The General Fund To Personnel Line Items In The Circuit Clerk And Human**

Resources Budgets For 2013, and County Attorney George Butler read the ordinance.

- 46.1 C. Clark stated that all of these items came through the Personnel Committee with a do-pass recommendation.
- 46.2 **C. Clark made a motion to adopt the ordinance. B. Pond seconded.**
- 46.3 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 46.4 VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-09, BOOK NO. 9, PAGE NO. 149

- 46.5 AN ORDINANCE AUTHORIZING THE COUNTY JUDGE TO ENTER INTO A CONTRACT FOR SERVICES WITH THE ASSOCIATION OF ARKANSAS COUNTIES: C. Clark introduced **An Ordinance Authorizing The County Judge To Enter Into A Contract For Services With The Association Of Arkansas Counties**, and County Attorney George Butler read the ordinance.
- 46.6 **C. Clark made a motion to suspend the rules and place the ordinance on second reading by title only. R. Bailey seconded. The motion passed unanimously by voice vote by those present.**
- 46.7 County Attorney George Butler read **An Ordinance Authorizing The County Judge To Enter Into A Contract For Services With The Association Of Arkansas Counties** by title only.
- 46.8 **C. Clark made a motion to suspend the rules and place the ordinance on third and final reading by title only. B. Pond seconded. The motion passed unanimously by voice vote by those present.**
- 46.9 County Attorney George Butler read **An Ordinance Authorizing The County Judge To Enter Into A Contract For Services With The Association Of Arkansas Counties** by title only.
- 46.10 **C. Clark made a motion to adopt the ordinance. B. Fitzpatrick seconded.**

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- 47.1 Citizen Comments: There were no citizen comments made.
- 47.2 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 47.3 VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. **The motion passed unanimously by those present. The ordinance was adopted.**

ORDINANCE NO. 2013-10, BOOK NO. 9, PAGE NO. 150

- 47.4 COUNTY JUDGE'S REPORT: Judge Edwards reported that the Road Department has pulled off of County Road 612, Kinion Lake Road for a while to let the grass grow so they do not get into a storm water problem; and they have the following roads ready for base and chip as soon as the weather permits: Thunder Mountain Road south of Elkins, Bunyard Road south of Winslow, Battlefield Park Road north of Pine Grove, half of Kinion Lake Road north of Prairie Grove, and Pete Lee Road west of Farmington. Also, works is progressing very well on the Harvey Dowell Bridge, and are setting footings in now and continue to project it to be finished in December 2013. There are no active State Aid Projects to report on at this time.
- 47.5 Judge Edwards reported that has been kind of a settlement between Arkansas and Oklahoma on the water issue with a ruling made yesterday. She stated that they have been in this contract for 10 years now and they have given us an extension of three more years to get a study done for which half the cost of around \$600,000 will be Arkansas' responsibility. Currently, she reported that the right now the phosphorus level of .037 and they are hopeful that the study can get that figure up.
- 47.6 COMMITTEE REPORTS: J. Patterson, Chairman of the County Services Committee, reported that this committee met on February 4 wherein he was selected as Chairman and J. Mardis as Vice Chairman. He stated that they reviewed the responsibilities of the County Services Committee, and established their regular meeting time which was left the same, 17 days prior to the regular Quorum Court meeting at 5:30 p.m. Planning Director Juliet Richey gave an overview of the Washington County Planning Office and monthly update; Assistant Grant Administrator Renee Biby reported on the Community Waste Water Treatment Systems in Washington County; John Adams, Information Technology Director, reported on the County's IT Department; and Angela Ledgerwood, Director of the Animal Shelter provided a quarterly report which was very informative.

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- 48.1 E. Madison, Chair of the Public Works Committee, reported that the committee held its organizational meeting on February 4 where she was elected Chair and H. Bowman Vice-Chairman. She stated that they reviewed the duties of the committee and set their regular meeting time immediately following the County Services meeting. The committee received an update on county buildings and facilities from Ron Wood, Building Superintendent. She reported that there are no big projects going on currently, but the expansion of the Sheriff's Annex is on the horizon. She noted that Mr. Wood reported on the efforts in the county to utilize some of their utility companies for free with efforts at energy conservation. Shawn Shrum, Assistant Road Superintendent reported on the County Road Department, but he mainly educated them about the expense of roads. She noted that there was discussion about desire to meet and have some of their meetings held in the county buildings around the county and Court Secretary Karen Beeks has made arrangements for their next meeting to be held jointly with County Services at the Historic Courthouse with a tour of the building afterwards.
- 48.2 B. Pond, Chairman of the Personnel Committee, reported that this Committee met on February 11 where he was selected as Chairman and A. Harbison Vice-Chair. He stated that they reviewed the responsibilities of the Personnel Committee, and established their regular meeting time which will be on the Monday, 10 days prior to the regular Quorum Court meeting at 5:30 p.m. He stated that they heard a report from Blair Johanson, Salary Consultant for Washington County; received an update from Nelson Driver, Insurance Consultant for Washington County; heard a review of quarterly reports from Lindsi Huffaker, Human Resources Director on new hires, terminations, and turnover analysis.
- 48.3 B. Pond stated that the committee had a discussion regarding full time employees that did not receive an additional salary increase at the beginning of 2013 due to being above the cap for their position grade and referred that back to JESAP. He stated that they had a request from Human Resources Director Lindsi Huffaker for the addition of a part-time employee in the HR Budget for 2013 which was forwarded for financing consideration. They heard a request from Sheriff Tim Helder to change the name of all Booking Officer positions (Grade 12) to Adult Detention Officer Positions (Grade 12) in Court; and a request from Circuit Clerk Kyle Sylvester to change a Deputy Circuit Clerk I position (Grade 10) to an Assistant Bookkeep Criminal/Juvenile Court Position (Grade 12) in the Circuit Clerk's Budget for 2013 which was also forwarded. Both items were addressed by the Quorum Court earlier in tonight's meeting. B. Pond reported that they had a resolution declaring that a vacancy exists for the position of Constable, Justice Of The Peace, District #9, which they tabled for further research.

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- 49.1 Tom Lundstrum, Chairman of the Jail/Law Enforcement/Courts Committee, reported that they met on February 11 and he was nominated as Chairman with B. Ussery as Vice Chairman. He stated that they reviewed the responsibilities of the Committee, and established their regular meeting time which will be on the Monday, 10 days prior to the regular Quorum Court meeting at 5:30 p.m. and will be meeting in conjunction with the Personnel Committee. He stated that they heard their regular three reports from Jeane Mack, Juvenile Detention Director; from Major Randall Denzer, Jail Administrator on adult detention; and from Sheriff Tim Helder on law enforcement. Nothing out of the ordinary was reported, except Sheriff Helder advised them that we were \$921,000 below 2011 refunds or reimbursements for keeping state prisoners and even if Act 570 goes through, our reimbursement will only be \$50,000 to \$60,000. Sheriff Helder further introduced the uniform change in the Sheriff's Department.
- 49.2 T. Lundstrum reported that they had a resolution confirming the policy statement of the Sheriff regarding the temporary filling of the office of Sheriff pursuant to Act 229 of 2009 which is on their agenda tonight as #13.1 which he would like to address at this time.
- 49.3 A RESOLUTION CONFIRMING THE POLICY STATEMENT OF THE SHERIFF REGARDING THE TEMPORARY FILLING OF THE OFFICE OF SHERIFF PURSUANT TO ACT 229 OF 2009 (A.C.A. §14-14-1310): T. Lundstrum introduced **A Resolution Confirming The Policy Statement Of The Sheriff Regarding The Temporary Filling Of The Office Of Sheriff Pursuant To Act 229 of 2009 (A.C.A. §14-14-1310**, and County Attorney George Butler read the resolution.
- 49.4 T. Lundstrum stated that this resolution is self-explanatory and required by Act 229 of the State and the Sheriff has given his policy statement which is in the packets, labeled #13.1-A.
- 49.5 **T. Lundstrum made a motion to adopt the resolution. C. Clark seconded.**
- 49.6 Citizen Comments: There were no citizen comments.
- 49.7 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the resolution.**
- 49.8 VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B.

Pond, B. Ussery, and R. Aman. **The motion passed unanimously by those present. The resolution was adopted.**

RESOLUTION NO. 2013-04, BOOK NO. 3, PAGE NO. 42

50.1 **AN EMERGENCY ORDINANCE ESTABLISHING CERTAIN COMMITTEES OF THE QUORUM COURT; AND OTHER MATTERS RELATED TO THE COMMITTEES.** E. Madison introduced **An Emergency Ordinance Establishing Certain Committees of the Quorum Court; And Other Matters Related to the Committees**, and County Attorney George Butler read the ordinance. This ordinance is being brought to the Quorum Court by JP Eva Madison. It contains an emergency clause and will be in effect immediately upon passage, requiring ten votes to pass.

50.1 E. Madison apologized for having to bring this ordinance back, but stated her only intent was to put into ordinance form what they effectively voted on at their last meeting. She reported from their January meeting that she initially brought forth an ordinance that did part of this, but County Attorney George Butler had advised that a motion was satisfactory which they did. However, when their became a dispute as to what they did, she looked at the statutes herself and felt like a motion that they do is more of an advisory opinion and not really binding and in order for an action to be binding, they do need to have an ordinance which will memorialize what they did in January. She stated that they have been discussing this for a long time and she is hopeful that they can push it forward tonight and noted that her intent is to try to make their committees structure more efficient. E. Madison stated that the work they do in the Budget and Finance Committee work that this court does is the most important work they do and she believes that they should all have a role in it. She stated that they have had a Budget Committee of the Whole for years which has been productive, and as far as she knows there has never been any procedural concerns raised. She noted that her research indicates that there are committees of the whole all over the state and because their committee is for a limited purpose, she believes it to be lawful. As an attorney, she would not be bringing something before the court that she did not feel good about doing. She stated that she has the utmost respect for the County Judge's authority and she will not dwell on the technicalities of all of this as they have debated them more than they should have. She stated at this point she believes they need to move forward and it is for the good of the County to close this issue out, get on with the finance and budget committee business that the County needs to do.

50.2 **E. Madison made a motion to adopt the ordinance. R. Bailey seconded.**

- 51.1 B. Fitzpatrick stated that the Budget Committee is not a standing committee as they have a very limited purpose; the Finance Committee is a standing committee just like County Services, Jail and Personnel Committees. She stated that until they get an Attorney General opinion or ruling on committee of the whole for a standing committee, she cannot vote to do the Finance Committee as a committee of the whole. She stated unless E. Madison wants to make this contingent upon an Attorney General ruling, she cannot support the ordinance.
- 51.2 A. Harbison stated that Senator Uvalde Lindsey has requested an opinion on this from the Attorney General. When she spoke with Senator Lindsey last week, he indicated that it takes about 3 months to receive these opinions and it has only been one month since the request was made. She noted that they already have 2-3 opinions that the County Judge determines the standing committees and this ordinance is overstepping into the County Judge's authority. Therefore, she concurs with B. Fitzpatrick that until the Attorney General makes an opinion, she will not be voting to adopt this ordinance.
- 51.3 R. Bailey stated that he too has the highest respect for Judge Edwards. He stated that the conservatives on the Quorum Court sometimes have felt ignored. When they went to a Budget Committee of the Whole last year, it felt so good having all of them together and giving their input and he believes it is the first time they have had a unanimous vote to balance the budget. He stated that they were able to take all carryover money and put it away in reserves and he believes that this will work the same or better as a Finance Committee of the Whole, just like the Budget Committee of the Whole. He knows that they have some talented people in their new JPs and they will understand the budget process. R. Bailey added that he is not sure that he trusts the Attorney General's judgment over the last six months.
- 51.4 R. Cochran stated that he agrees that the Finance Committee is a standing committee. In his reading and interpretation of the Arkansas statute, it does permit the County Judge to appoint this committee as opposed to them overriding it and appointing a Committee of the Whole.
- 51.5 **R. Cochran made a motion to amend the ordinance striking Article 2. A. Harbison seconded.**
- 51.6 E. Madison stated that she believes the Office of the Attorney General is worthy of their respect. In her review of a lot of opinions on this subject and a lot of recent opinions coming out of the Attorney General's Office, we are not getting definitive decisions but rather that they do not know what a court would decide and that the Legislature needs to clarify this issue. Therefore,

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she is very fearful of them delaying the important budget and finance work of this county while they wait on an opinion that might not give them an answer because the Attorney General is under no obligation to give them a definitive answer. E. Madison urged the court to vote on this and have the committee that the majority of the Quorum Court wants because delaying the important finance work of this county any longer is not wise. She pointed out that if the law changes or the Attorney General later says something that requires them to change course, they can do it at that point in time. She will oppose the amendment.

- 52.1 J. Patterson stated that he sees very little difference. The Budget Committee meets more than any other committee, including the Finance Committee and it needs more input than the other committees. He stated that watching the workings of the Finance Committee the year before he was on the court and being on the committee with three different chairs, C. Clark has understood it better and handled it better than anyone else. He noted that the most important thing that they do is determine where funds should be spent and the more people involved in that, the better off they will be. He pointed out that if something does not pass in committee, any one of them can still bring it up before the court, but if it doesn't get out of committee then it is probably not going to pass.
- 52.2 Judge Edwards pointed out that the Quorum Court has never allowed anything to die in committee.
- 52.3 J. Patterson stated that he has asked questions at the state level and has never received any answers, so he just gave up after about a year.
- 52.4 B. Pond stated that he does not understand the issue because if he is not on a committee, he can still attend the meetings and be heard and whether something passes out of committee or not, it can be brought to the full Quorum Court and he still has the input and the vote. He stated what troubles him more than anything is that County Attorney George Butler and Eva Madison he guess who went to the same school, but they are not in agreement on the legality of this. He noted that they did not get to see the opposing statutes that Attorney Butler and E. Madison were using for their argument; and from what he understood, the older statute says the County Judge "shall" appoint the committees and chairs and the newer statute says that the Quorum Court "may" appoint or organize itself. He further noted that in the past when the Court has plowed ahead and hurried an issue forward, it seems like things happen later on that people do not like.
- 52.5 T. Lundstrum stated that he is trying to understand why this has become what it is. He noted at their organizational meeting last month, Judge Edwards

suggested that they create an Committee of the Whole to handle all committee business and he didn't hear any opposition to that and if passed, it would be the same thing. He is unaware of any level of government where the committees don't elect their own chairman and co-chairman, and Attorney Butler interprets the law that the County Judge has the right to appoint the committee, not the chairman; therefore, he believes this is a moot point. He stated that they actually have a stronger voice in a Committee of the Whole and he concurs with J. Patterson that the Finance and Budget Committees are the most important committees that this Court deals with. He does not believe this has anything to do with personalities because he can respect everyone on this Court, but it is just a matter of how they are going to do this and he is, therefore, not in favor of the amendment.

- 53.1 In response to a question from J. Mardis, County Attorney George Butler stated that they had a Committee of the Whole last year just for budget.
- 53.2 B. Fitzpatrick stated that the Finance Committee was a standing committee where the Budget Committee of the Whole was not.
- 53.3 J. Mardis stated if it worked so well for the budget last year, he is trying to understand the legality difference other than one is a standing committee and the other is not. He further noted that there are a lot of counties like Benton and Pulaski who are doing it this way with no problems and his concern is the contingent that is being created by the whole issue. He believes if they would just put it together and move on, everything would be fine because they have enough differences in the group regardless of this.
- 53.4 J. Patterson stated that there was an article in the paper a few days ago that read the Counties of Pulaski, Sebastian, Washington and Benton do not do the exact same thing with their committees, so he does not believe there is a hard and fast rule to follow.
- 53.5 A. Harbison stated that there are two issues here. Last year they had the Finance Committee as a standing committee, and then they had the Budget Committee of the Whole during the budget process that was not a standing committee. In 2003, the Attorney General stated that the county judge appoints the people and sets the committees and what they are now asking the Attorney General for is a clarification. The Attorney General is the law of the state in interpreting these laws. She agrees with E. Madison that they need to move on, but does not believe that they need to decide tonight and should wait for the Attorney General's opinion. She questioned if it worked last year having the Finance Committee, why can't it work this year? She stated that there is no one on this court who has not had their say and no one

is preventing this. She stated that this ordinance is an important issue because it is taking the power away from the County Judge and she does not agree with that as this is one of her functions. The Quorum Court's function is to set the budget. Past practice in this county has been that every County Judge has appointed and set the committees. If this were to go to court today, because they have always done this in the past, the law says that past practice prevails and the standard set.

- 54.1 J. Firmin concurred with A. Harbison, stating that the committees have worked well in the past, but things have changed as they always do on the court. Last year was last year and this year is this year and they are confronting some different issues. He stated that he has had a lot of respect for the Judge and in the past has supported her in being able to make these decisions, but things have changed a little bit and he feels differently. He noted if they are going to talk from a legal standpoint, they could make it a Committee of 14 and his understanding is that there would be absolutely no argument about the lawfulness of it which he thinks is kind of silly. He stated that they are there to serve the County as best as they can and he believes the county would be served best if they have people like R. Bailey and C. Clark who have had a lot of experience on the Finance Committee before and not be alienated by what he think is sort of becoming more of a power struggle than a service to the county. J. Firmin stated that his position has changed and he will support E. Madison's ordinance.
- 54.2 B. Ussery asked what was keeping them from having a separate Finance Committee just like they do the other committees with 6-7 people appointed and then have the Budget Committee of the Whole meet after that which he sees as taking care of all of these problems.
- 54.3 C. Clark stated that last November is where the concept as a Committee of the Whole for Finance started as she was chairing finance and she truly got the impression from all 13 members that this was a great idea because everybody has input into financial decisions of this county which is what they do. She noted that input vs. a vote is a totally different thing; when you vote on something there is some assurance that you will honor that vote when we move forward and that is one of the reasons that she thought it was a very good suggestion to go into a Committee of the Whole for Finance. She stated that she values every single opinion and potential vote on this body and she reminded the 13 returning members sometimes people change their minds between the time that they talk at committee and the time they come to the full Quorum Court. She stated that they would have to truly explain a change of mind if they are coming into this as a Committee of the Whole. She

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addressed A. Harbison's statement that past practices prevail, stating that this was a very good argument unless you are breaking the law and that is why they are waiting on this Attorney General's opinion to find out which law prevails because it is conflicting.

- 55.1 C. Clark questioned whether they should wait until they have the Attorney General's Opinion which is at least two months out and if they were to do that, would they do Finance like they did tonight at the Quorum Court meeting? She stated that the Quorum Court sets committees so if they don't set a Finance Committee, it will come to the Quorum Court. She was not very happy doing it this way tonight, though she did it graciously at the request of the County Judge. C. Clark stated that having a Finance Committee lets them truly talk about these issues; not in a meeting of this stature that is now going into its third hour. She stated that they need a functional Finance Committee in place and if it is not a Committee of the Whole which she hopes it is and she will not support R. Cochran's amendment. She noted if the Attorney General rules against them, they will do it differently and if it does come out definitively, this county has lost nothing because they will have been meeting as a Finance Committee before Quorum Court and having been doing the financial business of the people which is 98% of their mandate in this job. She stated doing Finance Committee like they did tonight is wrong because they did not have the opportunity to listen to some of the new voices or to explain things as thoroughly as they can in a real Finance Committee meeting, though thankfully a lot of all 13 items they dealt with were pretty simple and they didn't spend an inordinate amount of money. She reiterated that in an actual committee meeting, they would have had more time to explain how all of this works because it is complicated.
- 55.2 B. Fitzpatrick stated that he has a problem with R. Cochran's amendment because Budget Committee of the Whole has worked very well for years, long before Judge Edwards. She stated that the committee structure as those who have been on the Quorum Court for several years have dealt with were the existing custom prevails has included a Budget Committee of the Whole and this has worked fine for years. On the idea of a Finance Committee of the Whole, she goes back and forth, but the problem she is having is the reason that they did not go with Judge Edwards's original idea to do the whole thing as a Committee of the Whole was that standing committees of the whole are not permitted. So she has a problem with a standing committee being a committee of the whole, not because it is a good, bad or indifferent idea, but because she is not sure it is a legal idea which is why she would prefer to wait until they get an Attorney General's Opinion. However, she concurred with C. Clark that they need to do something because bringing this before the court without talking ahead of time on the finance issues is going to be a problem if

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not items as clear cut as they had tonight. B. Fitzpatrick stated that she was going to suggest that they accept a smaller Finance Committee as they have traditionally done for decades and multiple judges until they get the Attorney General's opinion. If that opinion is that they can have a Finance Committee of Whole, then they would immediately with the next meeting become a Committee of the Whole, but she cannot make that motion because E. Madison's motion is in place.

- 56.1 E. Madison addressed B. Ussery's question about why they want to do it the way that she proposed it, stating that her logic and goal was because the work of the Budget and Finance Committees are so similar, that they merge them, have one meeting instead of multiple meetings which saves the county money because they meet less and they are all discussing the same thing. She believes that they are overstating the significance of just being present at a meeting and not having a vote, stating that she recalls being in committee meetings in the last two years where something was killed in committee and did not go onto the full Quorum Court and she does not believe that should happen with finance matters. She stated that everyone sitting on this Court deserves a vote on those issues in committee and at the Quorum Court.
- 56.2 E. Madison addressed where she has come up with the legal analysis, stating that she is looking at the exact two provisions that B. Pond talked about. One provision that says the Judge shall appoint the committees and she understands the legislative history, why that was retained when Amendment 55 was passed, and there is another provision that says the Quorum Court otherwise manages its own affairs. She stated if you look at the Judge having the single power to appoint and they retain every other power, the scope of how the interrelation of those two clauses has been referred to the Attorney General's Office frequently and there are opinions that are conflicting on this. She noted when Mike Beebe was Attorney General, the most recent opinion, gave a very extensive analysis of the issue and said that the power of appoint is only the power to name the members of committees. She stated that there is an opinion that says they set the number of people on committees and one that says they decide which committees are formed and that they can appoint their own chair and vice-chair. She looks around the state at how many counties are operating with committees of the whole in some respect and given what she sees as truly a legislative function, there are not many separations of powers areas where the executive branch appoints things in the legislative branch. She does not see the harm if they go ahead with this and end up being wrong because they have just all had a say and a vote for a few months.
- 56.3 E. Madison noted an unanticipated consequence of this is that she served on the Finance Committee for the first two years and worked really hard and was

very grateful to be appointed to that committee by Judge Edwards and she worked really hard on the Budget Committee, but when the Judge appointed a smaller Finance Committee, she was not on it. She stated that she wants that same opportunity for everyone on this court and if they need to do as J. Firmin suggested and have 14 members, she will be happy to be the one to sit out. She further noted if they had to have an Attorney General's opinion on everything they did, county business would come to a halt. She stated this court voted at the January meeting to have one Finance Budget Committee of the Whole, so they need to oppose R. Cochran's amendment, vote on the ordinance, put this behind them, move on and wait for the Attorney General's Opinion. They are not doing anything that will harm a soul and it would be good for the county to go forward in this respect.

- 57.1 J. Patterson stated that he was opposed to walking into the Quorum Court meetings, reading through the issues before them, people talk for 10-15 minutes, and then they vote on something that affects 200,000 people. He stated that they need time from when an issue is first presented to them to work through the system of committees before going to Finance and then voting at the Quorum Court. He believes that their job is more important than just showing up and doing all the business in one night.
- 57.2 R. Aman stated that he does not see that there is a problem with them voting for this tonight and moving on.
- 57.3 County Comptroller Cheryl Bolinger pointed out for new members on the court that finance and budget are completely two different things. She explained that Finance Committee only deals with the current year budget and making adjustments to it, and Budget Committee deals with what they plan to do for the next year budget. She stated that she did not feel that they would not want to combine those two meetings because they are dealing with completely different numbers and entirely different issues.
- 57.4 In response to a question from A. Harbison, E. Madison stated that she would make the Budget and Finance Committees two separate committees if they were still Committees of the Whole.
- 57.5 **Judge Edwards called for a vote on the motion to amend the ordinance striking Article 2.**
- 57.6 County Attorney George Butler explained that R. Cochran's motion was to strike Article 2 of the Ordinance.
- 57.7 B. Pond asked if striking Article 2 meant that they would no longer have all 15 members on the Budget Committee; to which County Attorney George Butler

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responded that it would mean that in terms of this ordinance, but that is something that can be decided at a later date.

- 58.1 County Attorney George Butler further explained that a "yes" vote on this motion would support R. Cochran's amendment to strike Article 2 and a "no" vote would be to keep the ordinance as it reads.
- 58.2 VOTING FOR: R. Cochran, B. Fitzpatrick, A. Harbison, and B. Pond. VOTING AGAINST: R. Bailey, H. Bowman, C. Clark, J. Firmin, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Ussery, and R. Aman. **The motion failed with four members voting in favor and ten members voting against the motion.**
- 58.3 County Attorney Butler stated that the motion to amend the ordinance failed and the ordinance is before them as it reads.
- 58.4 **T. Lundstrum called for the question. R. Bailey seconded.**
- 58.5 County Attorney Butler noted that a call for the question required a 2/3 vote to cut off debate.
- 58.6 VOTING FOR: R. Bailey, H. Bowman, C. Clark, J. Firmin, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Ussery, and R. Aman. VOTING AGAINST: R. Cochran, B. Fitzpatrick, A. Harbison, and B. Pond. **The motion to call for the question passed with ten members voting in favor and four members voting against the motion.**
- 58.7 County Attorney Butler explained that there will no longer be any debate, the question has been called, and it is time for them to vote on the motion to adopt the ordinance, once they have had citizen comments.
- 58.8 Citizen Comments: Jeff Williams, citizen of Washington County, addressed the Quorum Court stating he is addressing this issue solely as a citizen and not in his capacity as County Assessor as there are a couple of concerns that he has with this process. He stated that some people might say that they have some "strange bedfellows" in how they are working through this process and he has a tendency on some of these issues to kind of see on both sides. He stated as you read through the Attorney General's Opinions as he has, you can see how both sides could have their positions. As you read through the Arkansas Code Ann. §14-14-904 or if addressing in particular Arkansas Code Ann. §14-14-801 which are the two primary ones they have been discussing this evening, he thinks that it is prudent and important for the Quorum Court to take into consideration the work that is done by this court as

well as in the individual committees. He stated that tonight they had the opportunity to see the business of the Finance Committee conducted right out here in person with everyone being able to see, with great press coverage and opportunities for the public to be present. He noted that committee meetings are held earlier in the day which makes it difficult for people to attend those committee meetings, even though they are welcome to attend. He does not believe that it is practical to do this every month, but the actual amount of work conducted whether in those committees or around the court is literally the same amount of work; an extra two hours work done in the Finance Committee or in the Quorum Court is still two hours being done.

- 59.1 Mr. Williams concurred with B. Fitzpatrick's statement that the work that has been done in the Finance Committee in past years with the current membership that they had prior to discussion as a member of the whole has worked very well for the county and in fact in about 8 more months, Washington County will have been in business for 185 years. He stated that given the opportunity to delay this and not invoke the emergency clause on this might be prudent because since they have been able to do this business for the last 185 years, he does not believe that they will fall apart in the next two months to do this business. He stated that he can see the support on both sides of this issue, but believes that it would be prudent to give the Attorney General an opportunity to address. The Attorney General has not addressed it since 2003 and including this one, there will have been an additional five legislative sessions that have occurred and there may be some clarification that occurred during those time frames.
- 59.2 R. Bailey stated that they do not have much citizen's input, but moved it to 5:30 p.m. so that they could have citizen input. He stated about the only time they have citizen input is during the budget and sometimes in finance, so he believes that they have accommodated the public to attend their meetings. He respectfully disagrees with everything Mr. Williams just said but still considers him a friend.
- 59.3 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 59.4 **VOTING FOR: R. Bailey, H. Bowman, C. Clark, J. Firmin, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Ussery, and R. Aman. VOTING AGAINST: R. Cochran, B. Fitzpatrick, A. Harbison, and B. Pond. The motion passed with ten members voting in favor and four members voting against the motion. The ordinance was adopted.**

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- 60.1 Judge Edwards stated that she respects each and every one of the members of this Court for what they have done tonight as each of them have their own ideas, opinions and people that they represent. She stated she still feels very deeply that when she took office she swore to uphold the law, to do what was right and feels strongly that what they have done tonight is not legal, but will certainly be able to stand corrected if she gets that opinion. She stated that she is unsure what she is going to do at this time, but if she should decide to go ahead and accept this committee and she does get an opinion back from the Attorney General that this committee is not legal, she will unappoint this committee immediately and she will appoint a smaller committee. Judge Edwards stated that she is aware everyone has given a lot of thought to this and appreciates all of their effort for what they have done and assured them that she has no hard feelings.
- 60.2 E. Madison asked whether there had ever been an ordinance vetoed by the County Judge; to which G. Butler stated that there has not been a veto to his knowledge. The County Judge has 7 days to veto it and then they will have to wait until the next Quorum Court meeting to override the veto, or it can go into law without her signature in 7 days if she does not veto. He further stated that it would take 9 votes to override a veto.
- 60.3 E. Madison stated that the whole reason that she felt they needed to do this as an ordinance because that is the only way they can bind executive action. She asked County Attorney Butler to give his opinion about what is supposed to happen from here because the whole goal was to move forward and have a meeting.
- 60.4 County Attorney George Butler responded to E. Madison stating that he did not know at this time what the County Judge was going to do in terms of a veto, but if she does veto it and the votes fall the way they do, then they can vote to override her veto. If she does not veto it and it goes into effect, then he assumes that the Judge will acquiesce in its existence and it will go forward.
- 60.5 E. Madison asked whether they needed to set a Finance Committee meeting just as a precaution; to which County Attorney Butler responded that an emergency ordinance actually does not become law until the Judge signs it and she has 7 days to either sign or veto it; therefore, either way it does not go into effect for 7 days and if she does not sign it within the 7 days, it becomes law anyway published as opposed to our other ordinances which do not go into effect for 30 days.
- 60.6 In response to a question from A. Harbison, County Attorney Butler stated that if the Attorney General's Opinion comes back that committee of the

whole as a standing committee is illegal, he stated that it is very possible that the ordinance would be null and void, but they will still need to address it by ordinance. He reminded the court that this is the first time that they have set up committees by ordinance and if they change their minds about the committee structure, it will take another ordinance to change it.

- 61.1 C. Clark noted that they previously set the Finance Committee meetings for 9 days before the regular Quorum Court meeting, so this would be March 12.
- 61.2 **AN EMERGENCY ORDINANCE RATIFYING CONDITIONAL USE PERMITS GRANTED BY THE PLANNING AND ZONING BOARD:** J. Patterson introduced **An Emergency Ordinance Ratifying Conditional Use Permits Granted By The Planning And Zoning Board**, and County Attorney George Butler read the ordinance. The County Planning Board has approved a CUP for the Lodge at Hazel Valley on February 7, 2013. The ordinance contains an emergency clause and will be in effect immediately upon passage.
- 61.3 For the benefit of the new members, County Attorney George Butler explained the reason why they ratify or don't ratify all conditional use permits is the result of a lawsuit that went to the Arkansas Court of Appeals. He explained that with the County's zoning ordinance that is very unique. The way they go about granting or denying CUPs is legislative in nature and a legislative act. While it was on appeal, when they got the initial ruling, it was suggested that they change what they were doing because the issue was never brought up before Circuit Judge Lindsey or the Court of Appeals that they did not do an ordinance. Therefore, to be on the safe side, he suggested that they start ratifying and then when the Court of Appeals upheld Judge Lindsey that made our ordinance as it stands. He stated that is why they have to ratify because the Quorum Court cannot delegate legislative authority to the Planning and Zoning Board.
- 61.4 Planning Director Juliet Richey explained in this case, they had gotten a conditional use permit in the fall of 2011 anticipating that they were going to do large special events as well as have a commercial lodge and their business plan has now changed to downsize to where they are just going to have the lodge at this point. Since there were conditions tied to additional measures they had to do to take care of those special events, those needed to be eliminated, so they just came back and revised for a less intense use. Ms. Richey explained that she will let the Quorum Court know when they are given ratification whether or not it was contentious in anyway and whether they expect it to be appealed; in which case they will not recommend that the court ratify it. She noted in this case, it was completely non-contentious and they had only support from surrounding neighbors and no major issues and therefore, they do recommend ratification.

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- 62.1 **J. Patterson made a motion to adopt the ordinance. T. Lundstrum seconded.**
- 62.2 Citizen Comments: There were no citizen comments made.
- 62.3 **With no further discussion, Judge Edwards called for a vote on the motion to adopt the ordinance.**
- 62.4 **VOTING FOR: R. Bailey, H. Bowman, C. Clark, R. Cochran, J. Firmin, B. Fitzpatrick, A. Harbison, T. Lundstrum, E. Madison, J. Mardis, J. Patterson, B. Pond, B. Ussery, and R. Aman. The motion passed unanimously by those present. The ordinance was adopted.**
- ORDINANCE NO. 2013-11, BOOK NO. 9, PAGE NO. 151**
- 62.5 **OTHER BUSINESS: E. Madison reported that she would be attending the Association of Arkansas Counties meeting in Little Rock in early March. This is one of two opportunities they have each year to bring issues they have as JPs to the Quorum Court's Association. She stated if there are any matters of concern legislatively that they want her to take to the AAC, let her or Court Secretary Karen Beeks know.**
- 62.6 **CITIZEN COMMENTS: There were no citizen comments made.**
- 62.7 **ADJOURNMENT: The meeting adjourned at 8:25 p.m.**

Respectfully submitted,



Karen M. Beeks
Quorum Court Coordinator/Reporter